

TALCB Bulletin

TALCB was created by an act of the Texas Legislature in 1991 to license, certify and regulate real estate appraisers in Texas under state and federal laws. In 2011, TALCB's jurisdiction was expanded to register and regulate appraisal management companies.



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Read Before Signing

Business professionals frequently are asked to sign written documents during the ordinary course of business. This is no different for people in the appraisal industry. However, with the fast-paced work environment common to the appraisal world, it is easy to forget to slow down and take the time to read and understand what you're signing. Despite the shortage of time everyone has in the fast-paced information age, it is crucial to make the time to read, review and understand what you are signing.

Your Signature Matters

Obviously your signature matters. But why? Because when you sign a document it is typically indicating that you are agreeing to the statements in that document and that they are true and correct. A common example in the appraisal industry is the signed certification appraisers complete in their appraisal report. That certification contains certain statements the appraiser is making to their clients and intended users when they sign the appraisal report, including statements about the appraisal process and what their scope of work for that assignment was. However, often times appraisers are hard pressed to remember exactly what that certification says and whether they really did do everything the certification says they did. Many times they have not read the certification at all, or if they have, it has been a long time since they last did so. Despite these common oversights, appraisers are obligated under the Uniform Standards of Professional Appraisal Practice (USPAP) to not make

misleading statements in their appraisal reports and could face liability before the Board or in a civil lawsuit for making incorrect statements in their appraisal report. In egregious cases, even criminal liability is a possibility. In fact, the commonly used Fannie Mae residential report form 1040 contains additional statements in the certification. One of those statements (item #25) is an acknowledgment that "intentional or negligent misrepresentations contained in this appraisal report may result in civil liability and/ or criminal penalties including, but not limited to fine or imprisonment or both." A brief internet search of news headlines from the not too distant financial crisis reveals that state agency actions, lawsuits and even criminal prosecutions for serious oversights in this regard are not out of the question.

The same thought process applies to submitting application materials and documents to the Board. When you sign an application or other document, you are telling a state government agency that what you're submitting is true and accurate. If it is not, you may be exposing yourself to liability under state and federal law, even if you did not intentionally misstate anything. Texas Government Code §2005.52 makes it very clear that "a licensing authority may deny a person's application" or may also "suspend or revoke a person's license" if evidence establishes the person knowingly "made a false statement" or a "material misrepresentation" during the course of "applying for or renewing the license." In fact, the Texas Legislature even provided for criminal liability when

someone “knowingly makes a false statement in connection with applying for or renewing a license” by making it a felony offense (tampering with a governmental record). TEX. GOV'T CODE §2005.53 and TEX. PENAL CODE §37.10. This is just one, common example; other state and federal laws may also be implicated.

Read First, Please

Since your signature typically represents your agreement with what's contained in the written document, and because signing documents exposes you to certain obligations and liabilities, it is crucial that you read the document before signing. Make sure it is accurate and that you do indeed agree with what's being said. That may mean setting aside some quiet time, away from distractions to review the document. Make this a priority even if you are familiar with the document or have signed it before. Remember, forms change, get updated, and new provisions, laws and rules are added and implemented. The document may look very similar, but have a very important change in just one sentence. Overlooking these small details could expose you to legal liability since in Texas the law presumes that someone who has signed a document has read and understood its contents.

What to Think About

Do not feel compelled to sign a document if after reading you have questions. The whole point of reading the document is to review and understand what you are signing. If you still have questions, find answers to those questions first. Is there a term being used that you are unfamiliar with? Perhaps there is a legal reference that you need a lawyer to explain? Is there a question about whether something is true that requires you to do some research? All of these are questions you should ask yourself when reading a document and, if they arise, get complete answers to the questions before signing. While a quick phone call may be all that is needed, do not shy away from asking someone to provide answers in writing. Having a written response addressing your question may be helpful to have for future reference.

Where to Get Answers

Who you contact for clarification will depend on the type of question you have. That may mean you

contact a trusted advisor or mentor in the profession or an AQB Certified USPAP Instructor, particularly if its dealing with a statement contained in an appraisal report. Don't forget the wealth of resources available from our Board approved mentors who are available for consultation (by private agreement). Information about how to contact Board mentors is available on [our website](#). You may consider talking with representatives of your trade group who are familiar with the issue. It may mean you contact someone in your organization, firm or practice and have them research a factual matter to determine what the right answer is. This may often arise when completing application materials, experience logs, affidavits, criminal history questions, or other documents submitted to the Board. It may be that you need to contact the Board staff to inquire about the matter. Or there may be occasions when it's necessary to consult with a private attorney. All of these avenues are available to help you find the answers you need before you sign a document when you have lingering questions.

What to Remember About Signing Documents

Remember, taking the time to read, review and understand what you are signing is crucial to any business professional, but especially to those in the real estate appraisal industry. Both individual appraisers, firms and Appraisal Management Companies are confronted daily with obligations and legal consequences from the important documents they sign. And with good reason – remember, people are making lending and financial decisions regarding their new home, commercial property, investment property or other real estate transaction, and financial institutions and other clients are making decisions based on the written words in those documents. When you still have questions after reading, get them answered by someone you trust. If it's important enough, get those answers documented in writing, so you can rely on them later if they are needed. By making the effort to ensure written documents are correct, you will help maintain the high level of professionalism that clients, industry members and state regulators expect from appraisal service providers.

From the Deputy Commissioner Kristen Worman...

The Board will next meet on Friday August 19th at 10 AM at our agency HQ. We welcome you to come and observe the many duties that are required of the Board – deliberating rules and policies under consideration for proposal or adoption, hearing disciplinary cases or appeals and making decisions that protect the public by ensuring license holders are well educated and fully trained to deliver competent professional services, and attending to the administrative tasks of ensuring the agency runs efficiently and effectively. Here are some of the matters that are planned for consideration at the next meeting:

- **Adoption of rules to implement criminal history checks for current license holders and new applicants.** Beginning January 1, 2017, all state appraiser regulatory agencies will be required to ensure that all licensed appraisers have a background that does not call into question the public trust. The Board appointed a working group to recommend how best to implement this requirement, and the working group has recommended adopting rules to implement fingerprint-based background checks for current license holders and new applicants. The Board will consider whether to adopt these rules as recommended by the working group.
- **Approval of the Board's budget for FY2017.** The Board considered a draft budget for fiscal year 2017 at its previous meeting in May 2016 and will consider whether to approve the final FY2017 budget.
- **Review of comments submitted to the Appraisal Subcommittee (ASC).** The ASC is the federal agency that oversees state regulation of appraisers and Appraisal Management Companies (AMCs). The ASC has proposed a rule to collect a fee from AMCs that would support the development of a national registry for AMCs similar to the national registry for individual appraisers. The Board will discuss the comments submitted to the ASC on this proposed rule.

- **Review of comments submitted to the Appraisal Qualifications Board (AQB).**

The AQB develops the criteria required for appraiser licensing. On May 18, 2016, the AQB released the First Exposure Draft of Proposed Changes to the Real Property Appraiser Criteria. The Board will discuss the comments submitted to the AQB in response to the First Exposure Draft.



Kristen Worman

Federal oversight and detailed guidance to the field of appraisal work is both voluminous and evolving. Changes due to provisions of the Dodd-Frank Act have been extraordinarily slow in development. The Board has been working diligently to predict and carefully assess the most probable outcomes so that we can shape responses to market forces in ways that will be fully compatible with anticipated rules or requirements. On the other hand, developments coming from the Appraiser Qualifications Board (AQB) have been less predictable and potentially more consequential for individual appraisers. Requirements were on a steady track toward higher restrictions for many years and have recently shifted toward a more flexible and practical approach. We are closely monitoring these developments and regularly provide official comments to exposure draft of proposed policies and rules. Count on the Board to continue to carefully analyze each proposal and offer insights on common sense alternatives.

As always, we invite your comments on the work that we do and welcome your input on how we can improve our service to the people of Texas as we fulfill our agency's mission.

Change in Supervisory Appraiser Eligibility

The Appraiser Qualifications Board has changed the 3-year residency requirement for Supervisory Appraisers. While Supervisory Appraisers must still be licensed as a certified appraiser and in good standing for at least 3 years before supervising an appraiser trainee, *Supervisory Appraisers no longer have to be licensed for 3 years in each jurisdiction in which their appraiser trainee practices.* For example, an appraiser who is licensed and in good standing in Texas as a certified residential appraiser for 7 years is eligible to supervise trainees in Texas. If that same Texas appraiser becomes licensed as a certified residential appraiser in Oklahoma, that appraiser would be immediately eligible to

supervise trainees in Oklahoma without waiting 3 years. [This change took effect July 1, 2016.](#)

If you have been licensed as a certified residential or certified general appraiser and in good standing for at least 3 years in any jurisdiction AND you are currently licensed and in good standing as a certified residential or certified general appraiser in Texas, please consider becoming a Supervisory Appraiser for trainees in Texas.

If you are a qualified Supervisory Appraiser and would like us to provide your contact information to interested trainees, please [send us an email](#). We get inquiries regularly from trainees seeking interested supervisors. Thanks!

To become a supervisory appraiser you must:

- Be licensed in Texas as a Certified Residential or Certified General Appraiser for at least 3 years;
- Be in good standing with no disciplinary action affecting your ability to practice in the last 3 years;
- Complete the 2-hour Appraiser Trainee/Supervisory Appraiser course, for which you may receive CE credit; and
 - Submit the application and appropriate fee to the Board.

TALCB Enforcement Actions

The Texas Appraiser Licensing and Certification Board publishes their enforcement actions regularly on the new TALCB website. To read the reports please go to the [TALCB website and click](#) on, public and disciplinary actions.

IMPORTANT DATES TO REMEMBER

TALCB Board Meeting—August 19

Check the TALCB website regularly for postings of all of our upcoming meetings.

Rules Actions at the May Board Meeting

The following amendments or new rules were proposed at the Board meeting on May 13, 2016, and are up for adoption at the August 19, 2016, Board meeting. You may review the full text of these actions on the [Rules and Laws](#) section of the TALCB website. The deadline for submitting written comments has passed, but you may still submit comments in person at the Board meeting on August 19, 2016.

22 TAC §153.5, Fees

The proposed amendments add a reference to the fee for voluntary appraiser trainee experience reviews previously adopted by the Board in 22 TAC §153.22 at its meeting on February 19, 2016. The amendments also propose a new fee for fingerprint-based criminal history checks or other related services as recommended by the Working Group for AQB Criminal History Check Criteria.

22 TAC §153.9, Applications

The proposed amendments implement fingerprint-based criminal history checks for license applicants.

22 TAC §153.12, Criminal History Checks

As recommended by the Working Group for AQB Criminal History Check Criteria, the proposed rule implements fingerprint-based criminal history checks to comply with criteria adopted by the Appraiser Qualifications Board (AQB).

22 TAC §153.15, Experience Required for Licensing

The proposed amendments clarify the criteria required for awarding experience credit for applicants and license holders. The proposed amendments also remove redundant language and reorganize this section to improve readability.

22 TAC §153.16, License Reinstatement

The proposed amendments implement fingerprint-based criminal history checks for applicants who apply for license reinstatement.

22 TAC §153.17, Renewal or Extension of License

The proposed amendments implement fingerprint-based criminal history checks for license holders when renewing their license.

22 TAC §153.23, Inactive Status

The proposed amendments implement fingerprint-based criminal history checks for license holders with an inactive license and license holders who seek to renew an expired license on inactive status.

22 TAC §153.25, Temporary Out-of-State Appraiser License

The proposed amendments clarify the requirements an applicant must satisfy when applying for a temporary out-of-state license.

22 TAC §153.27, License by Reciprocity

The proposed amendments implement fingerprint-based criminal history checks for applicants who apply for or renew a license by reciprocity.